

Message Text

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PAGE 01 STATE 110952
ORIGIN L-03

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DRAFTED BY L/ARA:FARMSTRONG:5/1/78
APPROVED BY L:MBFELDMAN
ARA/AND/C A D. COX
JUSTICE - R. SHINE (SUBS)

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O 012251Z MAY 78
FM SECSTATE WASHDC
TO AMEMBASSY BOGOTA IMMEDIATE
INFO AMEMBASSY TEGUCIGALPA IMMEDIATE

C O N F I D E N T I A L STATE 110952

E.O. 11652: GDS

TAGS: OGEN, CO

SUBJECT:INTERVIEWS BY JUSTICE/CUSTOMS OFFICIALS

REF: (A) BOGOTA 4053, (B) STATE 108147

1. TO FACILITATE THE AMBASSADOR'S DECISION WHETHER TO
AUTHORIZE THE VISIT OF OFFICIALS FROM THE JUSTICE DEPART-
MENT TO INTERVIEW WITNESSES AND WHETHER TO NOTIFY THE GOC
IN ADVANCE, THE DEPARTMENT PROVIDES THE FOLLOWING BACK-
GROUND INFORMATION.

2. UNDER INTERNATIONAL LAW, ANY GOVERNMENT HAS THE SOVER-
EIGN RIGHT TO OBJECT TO AND PREVENT A FOREIGN CRIMINAL
INVESTIGATION FROM BEING CARRIED OUT ON ITS SOIL. THIS
DOES NOT MEAN, HOWEVER, THAT WE MUST NOTIFY THE HOST GOV-
ERNMENT IN ADVANCE OF EVERY ACTION INTENDED TO BE TAKEN IN
ITS TERRITORY PURSUANT TO SUCH AN INVESTIGATION. IN MANY
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CASES, THE NECESSARY CONSENT MAY BE INFERRED FROM THE
NATURE OF OUR WORKING RELATIONSHIP WITH THE GOVERNMENT IN
QUESTION, FROM ITS DOMESTIC LEGISLATION, OR FROM ITS PAST
PRACTICE IN THIS AREA. DIFFERENT GOVERNMENTS MAY BE
EXPECTED TO REACT IN VERY DIFFERENT WAYS, AND THE DEPART-
MENT MUST RELY ON THE JUDGMENT OF THE EMBASSY TO DECIDE

WHEN PRIOR NOTIFICATION IS APPROPRIATE. IF IT FEELS NOTIFICATION IS REQUIRED, THE FORMAT OFFERED IN REF (B) SHOULD BE USED.

3. WITH REGARD TO THE SPECIFIC QUESTIONS RAISED IN REF (A), JUSTICE OFFICIALS INDICATE THE WITNESSES ARE BEING INTERVIEWED VOLUNTARILY AND TO THE BEST OF THEIR KNOWLEDGE WILL NOT BE HOSTILE. THE INVESTIGATION DOES NOT INVOLVE ANY ALLEGATIONS OF WRONGDOING IN COLOMBIA OR BY GOC OFFICIALS.

4. THE DEPARTMENT IS UNABLE TO ANSWER THE BALANCE OF YOUR QUESTIONS. INFORMATION ABOUT THE INVESTIGATION, EXCEPT FOR THAT PROVIDED IN PARA. 3, IS DERIVED FROM A FEDERAL GRAND JURY INVESTIGATION AND IS THEREFORE SUBJECT TO THE SECRECY PROVISIONS OF RULE 6(E) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE. IN ADDITION, SOME OF THE INFORMATION WHICH HAS BEEN PRESENTED TO THE GRAND JURY WAS DERIVED FROM DOCUMENTS OBTAINED FROM THE SEC, DISCLOSURE OF WHICH IS SUBJECT TO A PROTECTIVE ORDER ISSUED BY THE US DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. THE ORDER PROVIDES FOR NOTICE TO BOEING TEN DAYS IN ADVANCE OF ANY DISCLOSURE OF THAT MATERIAL. IN THIS REGARD, IT IS IMPORTANT NOT TO MENTION THE COMPANY'S NAME IN ANY CONVERSATIONS WITH THE GOC. THE DEPARTMENTS OF STATE AND JUSTICE ARE DISCUSSING HOW RULE 6(E) AND PROTECTIVE ORDERS SUCH AS THE ONE IN CONFIDENTIAL

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THIS CASE SHOULD APPLY TO INFORMATION REQUESTED BY AN AMBASSADOR OR HOST GOVERNMENT IN CONNECTION WITH INVESTI-

GATIONS BEING CARRIED OUT ABROAD. WE HOPE THAT YOU WILL BE SATISFIED WITH THE INFORMATION WE HAVE BEEN ABLE TO SUPPLY IN THIS CASE.

5. THE JUSTICE AND CUSTOMS OFFICIALS WHO WOULD CARRY OUT THE PROPOSED INTERVIEWS IN COLOMBIA LATER THIS WEEK HAVE ALREADY LEFT FOR TEGUCIGALPA. DEPARTMENT WOULD APPRECIATE EMBASSY'S COMMENTS SOONEST SO THAT IT CAN WORK OUT THE NECESSARY ARRANGEMENTS WITH THE DEPARTMENT OF JUSTICE. PLEASE INCLUDE TEGUCIGALPA AS AN INFO ADDRESSEE ON YOUR REPLY. VANCE

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